

Remarks/Arguments

This case has been carefully reviewed and analyzed in view of the Official Action dated 22 November 2004. Responsive to the rejections and objection made in the Official Action, Claims 1 and 12 have been amended to clarify the combination of elements which form the invention of the subject Patent Application. Additionally, Claims 13, 14 and 18-23 have been corrected to correct the language thereof and Claims 3 and 15-17 have been cancelled by this Amendment, with Claims 24-34 having been previously cancelled. In the Official Action, the Examiner rejected Claims 1-2, 5, 5-7, 12-13, 15-17, and 21-23 under 35 U.S.C. § 103(b), as being anticipated by Uz, et al., U.S. Patent 5,801,779. The Examiner rejected Claims 4, 6, 9-11, 14 and 18-19 under 35 U.S.C. § 103(a), as being unpatentable over Uz, et al. However, the Examiner kindly indicated that Claim 3 would be allowable if rewritten in independent form including all of the limitations of the base Claim 1.

Claim 1 has been amended to incorporate the subject matter of Claim 3 therein, thereby effectively rewriting Claim 3 in independent form to include all of the limitations of the base, Claim 1. Thus, Claim 1 should now be allowable. Claims 2 and 4-11 are believed to set forth further patentably distinct limitations; but are at least patentably distinct for the same reasons as Claim 1.

With respect to Claims 12-14 and 18-23, it is respectfully submitted that the Uz, et al. reference is directed to a rate control algorithm for MPEG-2 encoding.

The encoding method is frame based and based in part on motion changes detected within macroblocks of the frame. However, the reference fails to disclose or suggest a method which determines the frame complexity for each frame as a ratio of a texture bit count for the frame to an average texture bit count summed with a ration of a motion vector bit count for the frame to the average motion vector bit count, and then determines the scene complexity as a sum of the frame complexity for each frame divided by a total number of frames, and wherein the bit budget for a scene is based on the scene complexity and capacity of a decoder buffer, as now claimed. Further, the reference fails to disclose or suggest the bit budget for the frame as being based at least in part on the bit budget for the scene less a quantity of bits used for already coded frames in the scene and the complexity of the first scene less the complexities of frames already coded in the scene, as now defined in Claim 21.

As the reference fails to disclose or suggest the combination of elements as defined in Claims 12 and 21, it cannot make those Claims obvious. Further, it is believed that the remaining Claims dependent on Claim 12 are patentably distinct, but are at least patentably distinct for the same reasons as Claim 12.

For all of the foregoing reasons, it is now believed that the subject Patent Application has been placed in condition for allowance, and such action is respectfully requested.

Respectfully submitted,
For: ROSENBERG, KLEIN & LEE

A handwritten signature in cursive script, appearing to read "David I. Klein".

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